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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,967	09/12/2003	Steve Klotz	15436.252.5.1	8989
22913	7590	10/03/2007		
WORKMAN NYDEGGER 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			EXAMINER CHEA, PHILIP J	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 10/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/661,967

Applicant(s)

KLOTZ ET AL.

Examiner

Philip J. Chea

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 10-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/30/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

Claims 1-21 have been examined.

#### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on January 30, 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### *Specification*

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 recites the limitation "the network operation" in line 2. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 8 recites the limitation "the sample window" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim. Does the Applicant mean "the sample duration window"?

Any claim not specifically mentioned is rejected by virtue of being dependent on a rejected claim.

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***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al. (US 5,850,388), herein referred to as Anderson.

As per claim 1, Anderson discloses a method for analyzing a network, as claimed, comprising:

capturing a data trace representative of the network operation (see column 10, lines 50-65, where the a data trace is performed in order to calculate network operation parameters such as, traffic statistics and error statistics);

determining the network topology from the data trace (see column 11, lines 57-67, where the topology is determined by monitoring and recording stations that are in the network);

dividing a duration of the trace into a first predetermined number of equal intervals (see Fig. 19A, where the trace is divided into 4 second intervals);

calculating initial states for each device in the network topology for each of the intervals (see column 13, lines 52-67, where initial states are calculated (i.e. frames sent through the network by devices) for each device in the network topology for each of the sampling periods (i.e. intervals); and

displaying network analysis information based upon the initial states and the network topology to the user (see Figs. 19A-19C, where the analysis information collected from the network trace is displayed for the user).

As per claim 2, Anderson further discloses allowing a user to adjust a sample duration window (see column 13, lines 29-37, where sampling period is considered sampling duration window).

As per claim 4, Anderson further discloses that adjusting the sample duration window comprises adjusting the granularity of a displayed sample analysis (see Fig. 19A and a column 13, lines 32-36,

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where network granularity from a sample size of 4 seconds can be changed to a finer granularity of a sample size of 1 second).

As per claim 5, Anderson further discloses storing a snapshot of the network analysis information (see Figs. 19A-19C, showing a stored snapshot of the network).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3,6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (US 5,850,388), herein referred to as Anderson and further in view of Garg et al. (US 6,327,677), herein referred to as Garg.

As per claim 3, Anderson does not expressly disclose dividing the sample duration window into a second predetermined number of equal intervals, determining a calculated initial state that immediately precedes a first interval in the sample duration window; calculating a valid starting state for each device on the network for the first interval in the sample duration based upon the determined preceding state; and calculating initial states for each device on the network for each of the second predetermined intervals based upon the valid starting state and the data trace.

However, Anderson discloses dividing a duration of the trace into a first predetermined number of equal intervals (see Fig. 19A, where the trace is divided into 4 second intervals) and that a sample duration window can be adjusted (column 13, lines 32-36). It would have been obvious to one of ordinary skill in the art to adjust a sample duration from 4 seconds as pictured in Fig. 19A, to a more refined sample window of 1 second as disclosed in column 13, lines 32-36 in order to extract more details about the network. Furthermore, Garg discloses dividing the sample duration window into a second

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predetermined number of equal intervals (see Fig. 4, describing how a sample duration window is divided into a second predetermined number of equals from five minute samples to one hour samples).

Therefore, after adjusting the sample duration window, Garg implies determining a calculated initial state that immediately precedes a first interval in the sample duration window (i.e. determining the starting point of the data trace); calculating a valid starting state for each device on the network for the first interval in the sample duration based upon the determined preceding state (i.e. calculating the starting state of the devices in relation to the new sample duration window); and calculating initial states for each device on the network for each of the second predetermined intervals based upon the valid starting state and the data trace (i.e. calculating initial states for each device on the network in relation to the new sample duration window).

As per claim 6, Anderson further discloses storing a snapshot of the calculated initial states for each device over the second predetermined intervals (i.e. it's obvious that Figs. 19A-19C would show snapshots for each device based on the new sample duration window).

As per claim 7, Anderson further discloses generating errors and metrics representative of the sample duration window (see column 13, lines 38-50).

As per claim 8, Anderson further discloses allowing a user to select the sample window (see column 13, lines 32-36) and the predetermined number of intervals (see column 5, lines 7-10).

As per claim 9, Anderson further discloses allowing the user to select a plurality of parameters to be displayed in the sample window (see Figs. 19A-19C, showing different parameters displayed such as, Network Utilization, Network Frame Rate, and Frame Size Distribution).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 6:30-4:00 (1st Friday Off).

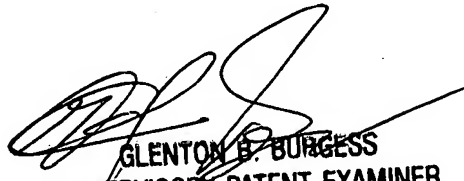
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Philip J Chea  
Examiner  
Art Unit 2153

PJC 9/17/07



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